

**MINUTES OF THE  
GREENSBORO BOARD OF ADJUSTMENT  
FEBRUARY 23, 2009**

The regular meeting of the Greensboro Board of Adjustment was held on Monday, February 23, 2009 at 2:00 p.m. in the City Council Chamber of the Melvin Municipal Office Building. The following Board members were present: Chair John Cross, Russ Parmele, Scott Brewington, Bill Strickland, Clinton Turner, Ryan Shell. Staff present were Rawls Howard, Zoning Administrator, Loray Averett, Zoning Services Coordinator, and Jerry Kontos, City Attorney's Office.

Chair Cross called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the manner in which the Board conducts its hearings and the method of appealing any ruling made by the Board. Vice Chair Cross also advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

**APPROVAL OF MINUTES**

Mr. Parmele moved to approve the minutes of the January 26, 2009 meeting, seconded by Mr. Brewington. The Board voted unanimously in favor of the motion.

**SWEARING IN OF STAFF**

Mr. Howard and Ms. Averett were sworn in as to all testimony given by them at today's meeting.

**OLD BUSINESS: None**

**NEW BUSINESS**

**VARIANCE**

- (a) **BOA-09-02 35 KINGLET CIRCLE Robert and Mary Sylvester request variances from a minimum rear setback requirement and from the maximum lot coverage requirement. *Violation #1:* A proposed attached sunroom and deck addition will encroach 15 feet into a 15-foot rear setback. Sections 30-4-3.3 and 30-4-6.1(D)(2)(b). *Violation #2:* The applicant is allowed to have 2,880 square feet of building coverage on the lot and is requesting to have 3,551 square feet of building coverage; thus, requesting a variance for an additional 671 square feet in relation to allowable maximum lot coverage. Section 30-4-3.3. Present Zoning-CD-PDM, BS-233, Cross Street-Eastern Shore Drive. (GRANTED)**

Rawls Howard stated that the applicant requests variances for a proposed enclosed porch and deck addition to encroach 15 feet into a 15-foot rear setback and to exceed the maximum lot coverage of 2,880 square feet by 671 square feet.

The property is recorded in Plat Book 110, Page 132 and described a Kinglet Commons, Phase one, Lot 92. It is located west of Eastern Shores Drive on the western portion of Kinglet Circle on zoning map block sheet 233. It is a square shaped lot containing approximately 5,760 square feet. The Unified Development Plan/Plat was approved by TRC on January 7, 1994. Tax records indicate the house was built in 1994.

The applicant is proposing to construct an enclosed porch and a deck along the rear portion of the existing dwelling. The structure will extend about 80 percent of the length of the dwelling. The decks and porch are proposed to be 14 feet wide by 55 feet in length. The total additions will contain approximately 770 square feet. Based on the recorded UDP Plan, the required rear setback is 15 feet. The applicant is proposing to construct the Porch and deck additions adjacent to the rear property line, thus requesting a zero lot line setback from the rear property line. Also, based on the UDP, the maximum lot coverage for structures is 50 percent of the lot area. The lot is 5,760 square feet. The applicant is allowed to have 2,880 square feet of structure on the ground. Tax records indicate the applicant has 2,781 square feet of structure. The proposed rear addition will increase this to a total square footage of 3,551 square feet; thus, the applicant is requesting a variance for 671 square feet over the maximum permitted lot coverage. The rear lot line of this property is adjacent to common area and the detention pond, which is located in the common area. The northern side lot line is adjacent to a 30 foot shared driveway area and the southern side lot line is adjacent to common area as well. The CD-PDM, Conditional-Planned Unit Development – Mixed District is intended to accommodate residential, commercial, and light industrial uses developed on large tracts in accordance with a Unified Development Plan.

Marc Isaacson, attorney representing the applicant, presented handouts for the Board members' review. He read into the record a letter from the homeowner's association. He pointed out that the applicant's property is surrounded on three sides by common area and also that there are other decks in the immediate area that are very like the proposed construction. Mr. Isaacson also read into the record an excerpt of the Ordinance relative to Reasonable Use.

In response to questions, Robert Sylvester, 35 Kinglet Circle, the applicant, came forward and stated that he would not be increasing the footprint of the proposed new construction, as it would go into the same area as the existing deck.

There was no one speaking in opposition to the request.

Mr. Strickland moved that in the matter of BOA-09-02, 35 Kinglet Circle, the findings of fact as presented by staff be incorporated into the findings and the Zoning Enforcement Officer be overruled and the variance #1 be granted as there are practical difficulties or unnecessary hardships that result from carrying out the strict letter of the ordinance. If the applicant complies with the provisions of the ordinance he can make no reasonable use of the property because of the placement of the house structure on the lot leaves very little land in front, on the sides and at the rear of the house. The foundation footprint covers approximately one-half of the property area. Under the existing ordinance the maximum depth that they could build on is only 6.5 feet which is unusable. The current deck already encroaches 3.5 feet into the required setback and the proposed construction does not encroach any further. The hardship of which the applicant complains results from unique circumstances relating to the applicants' property because of the proximity of the houses to each other and limiting construction setbacks making it difficult to build onto the outside of the house in this particular development. The small size of the lot precludes any construction of any reasonable size to the structure. The hardship results from the application of this ordinance to the property because applying the strict letter of the setback ordinance directly

results in the hardship of them not being able to construct any reasonable structure to the outside of the house. The hardship is not the result of the applicant's own actions because at the time of the purchase they had no indication that the existing deck was not built in compliance with the setback requirements. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit because no houses exist behind the property and there is only common area to the rear. The intent of the design was to build a structure that looked as if it has always been a part of the home, and that has been achieved with their proposed construction. The structure being proposed does not detract from the character of the neighborhood in any way. Granting the variance assures the public safety and welfare and does substantial justice because the public safety issue should not be at all affected by the proposed addition and there is really no down-side to the community, seconded by Mr. Brewington. The Commission voted 6-0 in favor of the motion. (Ayes: Cross, Brewington, Parmele, Turner, Shell and Strickland. Nays: None.)

In regard to Violation #2, Mr. Strickland moved that the findings as previously stated be used as a point of reference and the variance granted, seconded by Mr. Brewington. The Commission voted 6-0 in favor of the motion. (Ayes: Cross, Brewington, Parmele, Turner, Shell and Strickland. Nays: None.)

## **ABSENCES**

The absence of Mr. Pinto and Mr. Pearce was acknowledged.

## **ADJOURN:**

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There being no further business before the Board, the meeting was adjourned at 2:59 p.m.

Respectfully submitted,

John Cross, Chair  
Greensboro Board of Adjustment

JC/jd